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Paper No. 7

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COPY MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Nakahira, et al.	:	
Application No. 10/051,522	:	LETTER GRANTING FILING DATE
Filed: December 21, 2001	:	
Attorney Docket No. 04995/045001	:	

This is a response to the paper titled "Petition to Correct Filing Receipt", filed September 24, 2002, requesting that the above-identified application be accorded a filing date of December 21, 2001, rather than the presently accorded filing date of January 22, 2002.

On November 16, 2001, the Chief Operating Officer and Executive Vice President of the United States Postal Service (USPS) issued a memorandum temporarily and immediately suspending Express Mail service to the Washington, D.C. ZIP Codes 202xx through 205xx (e.g., 20231). The USPTO designated this interruption in the Express Mail service of the USPS as a postal service interruption within the meaning of 35 U.S.C. 21(a) and 37 CFR 1.6(e). The USPTO posted a notice regarding the suspension of Express Mail on the Office's website. The notice provided guidance on what action to take when the USPS refuses to accept the deposit of mail for delivery by Express Mail. The guidance set forth in the notice applies to the situation in which a post office refuses to accept the deposit of correspondence for delivery by Express Mail due to the suspension of USPS's Express Mail service to Washington, D.C., ZIP Code 20231, as well as the situation in which the correspondence is returned as undeliverable due to this suspension. The notice advised that if a party attempts to deposit correspondence for delivery to the USPTO with the USPS by Express Mail and the USPS refuses to accept the correspondence, the party should mail the correspondence by registered or first class mail with a statement by the person who originally attempted to deposit the correspondence with the USPS by Express Mail. The statement must indicate the date on which the person attempted to deposit the correspondence and that the USPS refused to accept the correspondence.

This notice was subsequently published in the Official Gazette.¹

The request included a statement from Jonathan P. Osha, who attested that he attempted to deposit the application with the USPS by Express Mail on December 21, 2001, but the USPS refused to accept the correspondence due to the suspension of Express Mail to the 20231 Zip Code. He then mailed the application to the Assistant Commissioner for Patents, Washington, D.C. 20231, including the box designation "Box Filing Date". Accordingly, the application is entitled to a filing date of December 21, 2001.

The request to accord the application a filing date of December 21, 2001 is granted.

No petition fee is required and none has been paid.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **December 21, 2001** and for issuance of a new filing receipt.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.


Beverly M. Fianagan
Supervisory Petitions Examiner
Office of Petitions

cc: Rosenthal & Osha, L.L.P.
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¹ See Suspension of the "Express Mail" Service of United States Postal Service for mail addressed to ZIP Codes 202xx through 205xx, 1253 Off. Gaz. Pat. Office 103 (Dec. 25, 2001).